

REMARKS

This Amendment and Reply is intended to be completely responsive to the Final Office Action mailed August 4, 2008. Applicants respectfully request reconsideration of the present Application in view of the foregoing amendments and in view of the reasons that follow. Claims 17, 22, 29-32 and 34 have been amended. No new matter has been added. Accordingly, Claims 17-36 will remain pending in the present Application upon entry of this Amendment and Reply. Applicants note that the Examiner failed to address dependent Claim 36 in the Final Office Action.

A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

Claim Objections

On page 2 of the Detailed Action, the Examiner objected to Claims 7-35 because the Examiner asserted that they include an informality. Specifically, the Examiner asserted that “[t]he word ‘tooththing’ needs to be changed to either tooth or teething for clarity.”

Applicants continue to disagree and note that the Examiner has not provide any basis or reasoning as to why this term needs to be changed. Applicants continue to believe that the term “tooththing” is the appropriate term to use in the claims because “tooththing” is the term that is used throughout the Detailed Description of the present Application, and is a term that would be clearly understood by a person of ordinary skill in the art at the time of the invention after reviewing the present Application.

However, in an effort to further advance the prosecution of the present Application, Applicants have replaced the term “tooththing” in the claims with the term “tooth” as required by the Examiner. Applicants note that such a change is not intended to change the scope of the claims as originally presented. Accordingly, Applicants respectfully request withdrawal of the objection to the claims for including the term “tooththing.”

Allowable Subject Matter

On page 3 of the Detailed Action, the Examiner objected to Claims 22, 23, 31 and 32 as being dependent upon a rejected base claim, but indicated that such claims would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. Applicants thank the Examiner for this notice of allowable subject matter.

Applicants have chosen to rewrite Claims 31 and 32 in independent form to include all of the limitations of their respective base claim and any intervening claims. Accordingly, Applicants request favorable consideration and allowance of independent Claims 31 and 32. Dependent Claims 33-36 each depend from independent Claim 31 and are allowable therewith for at least the reason of their dependency, without regard to the further patentable subject matter set forth in such claims.

Despite rewriting Claims 31 and 32 in independent form, Applicants wish to make it unmistakably clear that it does not agree to or acquiesce in the rejection of Claims 30 and 33-35 under 35 U.S.C. § 102(b) detailed below. Claims 31 and 32 have been rewritten in independent form only to obtain prompt allowance of claims reciting subject matter indicated as allowable by the Examiner.

With regard to Claims 22-23, Applicants have chosen not to rewrite these claims in independent form including all of the limitations of the base claim and any intervening claims. Rather, as detailed below, Applicants has amended independent Claim 17 to recite a combination of subject matter that Applicants believe is patentable in view of the cited references.

Claim Rejections – 35 U.S.C. § 102(b)

On page 2 of the Detailed Action, the Examiner rejected Claims 17-21, 24-26, 28-30 and 33-35 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,696,515 to Heesch (“Heesch”). These rejections should be withdrawn because Heesch fails to disclose, teach or suggest the claimed inventions.

For example, with regard to Claims 17-21, 24-26, 28 and 29, independent Claim 17 recites a “recliner mechanism” comprising, among other elements, a “toothed element including a fourth tooth and a spring, the fourth tooth being engageable with the third tooth, the spring being encircled by and at least partially received within the toothed element” (emphasis added).

Heesch fails to disclose, teach or suggest such a recliner mechanism. In contrast, Heesch discloses a “second clutch assembly 46” that includes a “spindle 48,” a “clutch gear 50” affixed to the “spindle 48” and a “coil spring 52 on the spindle 48” (col. 3, lines 8-19, Figure 2). Heesch further discloses that “one end 54 of the spring 52 is affixed to the frame against movement and the opposite end 56 is unrestrained” (col. 3, lines 19-21). The “coil spring 52” is wrapped around an outer periphery of the spindle 48 and is offset from the “clutch gear 50” in an axial direction. No part of the “coil spring 52” is received within the “clutch gear 50.” As such, Heesch fails to disclose, teach or suggest a spring that is at least partially received within a toothed element as required by independent Claim 17.

Accordingly, Applicants respectfully request withdrawal of the rejection of independent Claim 17 because at least one element of such claim is not disclosed, taught or suggested by Heesch. Claims 18-21, 24-26, 28 and 29 depend from Claim 17 and are allowable therewith for at least the reasons set forth above, without regard to the further patentable subject matter set forth in such claims. Reconsideration and withdrawal of the rejection of Claims 17-21, 24-26, 28 and 29 is respectfully requested.

With regard to Claims 30 and 33-35, independent Claim 30 recites a “recliner mechanism” comprising, among other elements, a “clamping element including a third tooth and a first fastening opening; a toothed element including a fourth tooth and a second fastening opening . . . wherein the first fastening opening and the second fastening opening are each configured to receive a transmission rod to accommodate different seating arrangements (emphasis added).”

Heesch fails to disclose, teach or suggest such a recliner mechanism. In rejecting Claim 30, the Examiner alleged that Heesch shows a recliner mechanism having a “clamping element and [a] toothed element [that] have a respective fastening opening (which receives a pivot pin 34, 48) but inherently may receive a transmission rod.” While Applicants respectfully disagree that it would be inherent for the “first clutch gear 36” and the “clutch assembly” to receive a transmission rod rather than the disclosed “spindle 34” and “spindle 48” respectively, Applicants note that the Examiner has not, and cannot, assert that opening in the “first clutch gear 36” for receiving the “spindle 34” or the opening in the “clutch assembly” for receiving the “spindle 48” are configured to accommodate different seating arrangements. As such, Heesch fails to disclose, teach or suggest a “clamping element including a third tooth and a first fastening opening; a toothed element including a fourth tooth and a second fastening opening . . . wherein the first fastening opening and the second fastening opening are each configured to receive a transmission rod to accommodate different seating arrangements,” as required by independent Claim 30.

Accordingly, Applicants respectfully request withdrawal of the rejection of independent Claim 30 because at least one element of such claim is not disclosed, taught or suggested by Heesch. Claims 33-35 depend from Claim 30 and are allowable therewith for at least the reasons set forth above, without regard to the further patentable subject matter set forth in such claims. Reconsideration and withdrawal of the rejection of Claims 30 and 33-35 is respectfully requested.

Claim Rejections – 35 U.S.C. § 103(a)

On page 3 of the Detailed Action, the Examiner rejected Claim 27 under 35 U.S.C. § 103(a) as being unpatentable over Heesch. Claim 27 depends from independent Claim 17, which has been amended to recite subject matter that Applicants believe is patentable in view of Heesch. As such, Claim 27 is allowable therewith for at least the reason of its dependency, without regard to the further patentable subject matter set forth in such claim. Reconsideration and withdrawal of the rejection of Claim 27 is respectfully requested.

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Applicants believe that the present Application is now in condition for allowance. In particular, even when the elements of Applicants' claims, as discussed above, are given a broad construction and interpreted to cover equivalents, the cited references do not teach, disclose, or suggest the claimed subject matter. Favorable reconsideration of the present Application as amended is respectfully requested.

Further, Applicants respectfully put the Patent Office and all others on notice that all arguments, representations, and/or amendments contained herein are only applicable to the present Application and should not be considered when evaluating any other patent or patent application including any patents or patent applications which claim priority to this patent application and/or any patents or patent applications to which priority is claimed by this patent application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. § 1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

The Examiner is encouraged to contact the undersigned by telephone if the Examiner believes that another telephone interview would advance the prosecution of the present Application. Please direct all correspondence to the undersigned attorney or agent at the address indicated below.

Respectfully submitted,

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By 

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